

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 1845/2023

Bhagirath S/o Poonma Ram, Aged About 39 Years, R/o Poonma Ram, Jogau, Jalore, Rajasthan.

----Petitioner

Versus

1. State of Rajasthan, Through The Secretary, Department Of Education, Government Of Rajasthan, Jaipur.
2. Director, Secondary Education, Rajasthan, Bikaner.
3. Joint Director, Education Department, Pali, Mandal-Pali.

----Respondents

Connected With

S.B. Civil Writ Petition No. 2700/2023

Ravata Ram S/o Poonma Ram, Aged About 28 Years, R/o Haryali, Jalore, Rajasthan.

----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary, Department Of Education, Government Of Rajasthan, Jaipur.
2. Director, Secondary Education, Rajasthan Bikaner.
3. Joint Director, Education Department, Pali, Mandal- Pali.

----Respondents

For Petitioner(s)	:	Mr. Muktesh Maheshwari
For Respondent(s)	:	Mr. Hemant Choudhary, GC with Mr. Vishal Jangid, Dy.G.C.

HON'BLE MR. JUSTICE VINIT KUMAR MATHUR

Order

01/05/2023

Heard learned counsel for the parties.

Since both the writ petitions arise out of the same cause of action and are based on similar facts, therefore, they are being decided by this common order.

The present writ petitions have been filed against the suspension order dated 24.12.2022 (Annex.1) passed by Director,

Secondary Education, Rajasthan, Bikaner as also dismissal order dated 13.01.2023 (Annex.3) passed by the Joint Director, School Education Department, Pali.

Briefly, the facts necessary to be noted in the present case are that the petitioners namely Bhagirath and Ravat Ram were appointed as Senior Teachers in Science and Sanskrit, in Sirohi and Jalore Districts respectively. An FIR was registered against the petitioners at Police Station, Sukher, Udaipur on 25.12.2022, wherein allegation was levelled against them that they were solving the question paper of Senior Teacher Examination, conducted by RPSC. The petitioners in pursuance of the registration of the FIR, were sent to judicial custody. While the petitioners were in judicial custody, an order dated 24.12.2022 was served upon them, whereby they were placed under suspension. Subsequent thereto, they were served with another order dated 27.12.2022 seeking their defence in the proposed disciplinary inquiry by the department. Before the petitioners could file their response, they were dismissed by the respondents vide order dated 13.01.2023.

Learned counsel for the petitioners further submits that once the authorities have issued a notice seeking the response of the petitioners in pursuance of the proposed disciplinary inquiry on 27.12.2023, then they cannot pass the order dated 13.01.2023, whereby the petitioners have been dismissed from service without taking recourse to the proceedings in the disciplinary inquiry. Learned counsel also submits that once the disciplinary proceedings have been initiated and the petitioners have been called upon to file their defence/response, without completing the

same, the order dated 13.01.2023 has been passed, whereby the petitioners were dismissed from service and it has been observed by order dated 13.01.2023 that since the petitioner committed grave misconduct, therefore, it is not possible to hold an inquiry under Rule 16 of the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958 (hereinafter referred to as 'the Rules of 1958') and they are liable to be dealt with under Rule 19 (ii) of the Rules of 1958.

Learned counsel for the petitioners vehemently argued that the order passed is in gross violation of the principles of natural justice and the situation and conditions mentioned for passing the order dated 13.01.2023 are not in-conformity with the provisions of Rule 19 (ii) of the Rules of 1958. He, therefore, submits that the writ petitions may be allowed and the suspension order dated 24.12.2022 (Annex.1) and the dismissal order dated 13.01.2023 (Annex.3) may be quashed and set aside.

In support of his contention, learned counsel for the petitioners has relied upon a judgment of this Court rendered in ***S.B. Civil Writ Petition No.5669/2021 (Bhinya Ram Vs. State of Rajasthan & Ors.)*** and other connected matter decided on 23.05.2022.

Per contra, the learned counsel for the respondents submits that the present writ petition is not maintainable on account of the alternate remedy available to the petitioner of filing an appeal against the order dated 13.01.2023. He submits that Rule 23 of the Rules of 1958 provides for the statutory appeal for redressal of grievances of the petitioners in this case. Since alternate and

equally efficacious remedy of appeal is available to the petitioners, therefore, the writ petitions may be dismissed.

To buttress his contention, learned counsel for the respondents relied upon a judgment of Hon'ble the Supreme Court rendered in ***S.A. Khan Vs. State of Haryana & Ors., AIR 1993 Supreme Court 1152***. Learned counsel for the respondents submits that the petitioners were prima facie found involved in helping to dummy candidates by solving the papers in the examinations conducted for the recruitment of Teachers Grade-II in the State of Rajasthan. In the criminal case pending against the petitioners, the involvement of the petitioners is prima facie made out in adopting malpractices by a particular group who were involved in helping the dummy candidates after the paper was leaked. He, therefore, submits that no indulgence should be granted to such persons much less the teacher themselves, who are the torch bearers and nation builders of the society. He, therefore, prays that the writ petitions may be dismissed.

I have considered the submissions made at the Bar and have gone through the relevant record of the case.

The petitioners in the present case are teachers, they impart education, *Sanskar* to the younger generation of our country. The petitioners were caught red handed along with the other group of persons in a hotel at Udaipur who were solving the papers for dummy candidates. The petitioners are posted at Sirohi and Jalore & there is no satisfactory explanation of the petitioners about their presence in hotel at Udaipur more particularly with the persons, who were involved in helping the dummy candidates and were using unconstitutional and unethical measures for helping the

candidates in the examination for Teacher recruitment in the State of Rajasthan. Therefore, such persons like the petitioners who are involved in malpractices, unconstitutional and unethical acts do not deserve any leniency in the matter.

This Court is at pains to note that nowadays, the leakage of papers and other malpractices employed by the miscreants like petitioners are creating havoc in the society, the honest and genuine students' career is jeopardized by such acts and completely demoralizing them. The involvement of teachers in such malpractices is cause of serious concern. This Court feels that the time has come when no sympathy and benefit of doubt should be granted in favour of persons like petitioners. They are required to be dealt with iron hands.

Learned counsel for the respondents informed this Court that after detection of the above said incident in the present case, the entire examination for recruitment of teachers has been cancelled.

The judgment relied upon by the learned counsel for the petitioners in the case of **Bhinya Ram** (supra) has no application taking into consideration the gravity of charges levelled against the petitioners in the present case.

In the considered opinion of this Court, when the statutory alternative remedy of filing an appeal is available to the petitioners as per the Rules of 1958, this Court is not inclined to entertain the present writ petitions at this stage. The writ petitions are therefore, liable to be dismissed on the ground of availability of alternate and efficacious remedy of appeal.

In view of the discussion made herein above, the present writ petitions are dismissed.

However, the appellate authority shall independently examine the matter on its own merit without being influenced by the observations made by this Court in this order.

(VINIT KUMAR MATHUR),J

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